

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent Application Ser. No.: 09/466,627 Group Art Unit: 2176

Filing Date: 12/17/1999 Examiner: M. NGUYEN

Attorney Docket Number YO999-429 Inventor Name(s): LO ET AL.

Title: METHOD AND APPARATUS FOR CONVERTING BETWEEN DATA SETS AND XML DOCUMENTS

Mail Stop Appeal Brief
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

PETITION

Sir:

Applicant hereby petitions from the Examiner's refusal to enter the declaration under rule 131 after final. Applicant could not have anticipated that the Examiner would require this declaration in the final office action, because the Examiner's requirement for this declaration was improper. The Examiner improperly cites 37 CFR 1.47 as a reason for requiring a declaration under rule 131. However rule 47 is only applicable to declarations under rule 63, not to declarations under rule 131. Rule 131 is permissive about who "may" file. Applicant was merely trying to be extra cooperative by filing the declaration in response to the Examiner's improper requirement.

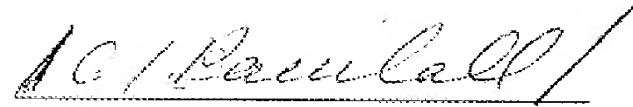
The Examiner's statement that this declaration could have been filed earlier is therefore not supported by the facts. The Examiner should therefore enter the declaration, since she required it in the first place.

Also, the Examiner has not cited any regulation supporting her allegation that declarations under rule 131 could not be entered after final at the time this declaration was filed.

Correction is accordingly respectfully requested.

Applicant does not believe that any fee should be due as a result of this petition, because the necessity for it arose out of a PTO error; however should a petition fee be due it may be charged to account #50-0510. If the PTO determines that a petition fee was improperly charged, that fee may be credited to the same account.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "A. E. Barschall", written over a horizontal line.

By _____

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